

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of	:	Attorney Docket No. 2006_1381A
Peter HEROLD et al.	:	Confirmation No. 8997
Serial No. 10/593,461	:	Group Art Unit 1628
Filed September 19, 2006	:	Examiner Rei Tsang Shiao
ORGANIC COMPOUNDS	:	Mail Stop: ISSUE FEE

PETITION REGARDING PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with 37 C.F.R. § 1.705(b), Applicants respectfully request reconsideration of the patent term adjustment of 247 days as set forth in the Notice of Allowance mailed September 14, 2010. This Petition is being filed no later than payment of the Issue Fee, as required by 37 C.F.R. § 1.705(b).

I. Fee

As required by 37 C.F.R. § 1.705(b)(1), this Petition is accompanied by the required fee of \$200.00.

II. Statement of the Facts Involved

A. Correct Patent Term Adjustment

The Notice of Allowance, which was mailed on September 14, 2010, indicates a Patent Term Adjustment to date of 247 days.

However, Applicants have calculated a Patent Term Adjustment to date of 98 days based on the following facts:

[It is noted that this calculation does not yet include delay under 35 U.S.C. § 154(b)(1)(B) or 35 U.S.C. § 154(b)(2)(A), which is not considered by the PTO until an Issue Date for the patent has been established.]

B. Relevant Dates

The above identified application has a 35 U.S.C. § 371 filing date of September 19, 2006.

The first Office Action, which was a Restriction Requirement, was mailed on July 29, 2008, resulting in a PTO delay of 253 days beyond the 14 months provided by 35 U.S.C. § 154(b).

A Response by Applicants was filed August 29, 2008, within the 3 months provided by 35 U.S.C. § 154(b).

A non-final Office Action was mailed December 3, 2008, within the 4 months provided by 35 U.S.C. § 154(b).

A Response by Applicants was filed May 4, 2009, resulting in an Applicant delay of 62 days beyond the 3 months provided by 35 U.S.C. § 154(b).

A final Office Action was mailed June 29, 2009, within the 4 months provided by 35 U.S.C. § 154(b).

A Response by Applicants was filed September 29, 2009, followed by an Advisory Action mailed October 21, 2009, and finally, a Request for Continued Examination was filed November 30, 2009, resulting in an Applicant delay of 62 days beyond the 3 months provided by 35 U.S.C. § 154(b).

A non-final Office Action was mailed March 18, 2010, within the 4 months provided by 35 U.S.C. § 154(b).

A response by Applicants was filed July 19, 2010, resulting in an Applicant delay of 31 days beyond the 3 months provided by 35 U.S.C. § 154(b).

A Notice of Allowance was mailed September 14, 2010, within the 4 months provided by 35 U.S.C. § 154(b).

Accordingly, the PTO adjustment based on delay under 35 U.S.C. § 154(b)(1)(A) is 253 days.

There were 155 days of Applicant delay under 35 U.S.C. § 154(b)(2)(C).

Accordingly, the PTA set forth on the Notice of Allowance should be 98 days, rather than 247 days.

The PTA tab for the above-identified application in PAIR fails to include Applicants' Request for a New Office Action, filed April 8, 2009, as well as Applicants' response filed May 4, 2009. Additionally, the PTA tab incorrectly indicates that Applicants filed a response on December 3, 2008. These errors result in the incorrect PTA set forth on the Notice of Allowance. Specifically, the indication of 87 days based on the mail date of the final rejection of June 29, 2009 is incorrect. Additionally, Applicant delayed 62 days in filing the response of May 4, 2009.

Based upon the information provided above, Applicants respectfully request reconsideration of the PTA calculation to date, as set forth in the Notice of Allowance.

C. Terminal Disclaimer

The above-identified application is not subject to a Terminal Disclaimer.

D. Reasonable Efforts

Any Applicant delays under 37 C.F.R. § 1.704 are set forth above. There were no other circumstances constituting a failure to engage in reasonable efforts to conclude processing of examination of the above-identified application, as set forth in 37 C.F.R. § 1.704.

Based upon the provisions of 37 CFR 1.705(b), and for the reasons provided in detail above, Applicants respectfully request correction of the Patent Term Adjustment to date in the above-identified application, as set forth in the Notice of Allowance, to 98 days.

Respectfully submitted,

Peter HEROLD et al.

/Amy E. Schmid/

By 2010.12.03 11:07:23 -05'00'

Amy E. Schmid

Registration No. 55,965

Attorney for Applicants

AES/cbc
Washington, D.C. 20005-1503
Telephone (202) 721-8200
Facsimile (202) 721-8250
December 3, 2010